

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

ROGELIO MAY RUIZ,

1:22-cv-01345-GSA-PC

Plaintiff,

**ORDER DENYING PLAINTIFF'S MOTION TO
APPOINT COUNSEL AND INTERPRETER**

ROJAS.

ORDER GRANTING PLAINTIFF'S MOTION FOR EXTENSION OF TIME

Defendant.

(ECF No. 11.)

**DEADLINE TO FILE FIRST AMENDED
COMPLAINT: FEBRUARY 10, 2023**

I. BACKGROUND

Rogelio May Ruiz (“Plaintiff”) is a state prisoner proceeding *pro se* and *in forma pauperis* with this civil rights action pursuant to 42 U.S.C. § 1983. On October 21, 2022, Plaintiff filed the Complaint commencing this action. (ECF No. 1.) The Complaint is written in the Spanish language. (Id.)

On November 18, 2002, the Court screened the Complaint and issued an order striking the Complaint, with leave to file an amended complaint written in the English language by December 21, 2022. (ECF No. 10.)

On November 18, 2022, Plaintiff filed a motion for appointment of counsel and an interpreter, and a motion for extension of time to file the amended complaint. (ECF No. 11.)

1 **II. MOTION FOR APPOINTMENT OF COUNSEL AND INTERPRETER**

2 Plaintiff requests the Court to appoint counsel and an interpreter to assist him with this
3 case, arguing that Plaintiff is illiterate, speaks only Spanish, is contagious with Covid-19, has
4 blurry vision, and needs surgery. Plaintiff requests the appointment of a bilingual public defender
5 to represent him.

6 Plaintiff does not have a constitutional right to appointed counsel in this action, Rand v.
7 Rowland, 113 F.3d 1520, 1525 (9th Cir. 1997), and the court cannot require an attorney to
8 represent plaintiff pursuant to 28 U.S.C. § 1915(e)(1). Mallard v. United States District Court
9 for the Southern District of Iowa, 490 U.S. 296, 298, 109 S.Ct. 1814, 1816 (1989). However, in
10 certain exceptional circumstances the court may request the voluntary assistance of counsel
11 pursuant to section 1915(e)(1). Rand, 113 F.3d at 1525.

12 Without a reasonable method of securing and compensating counsel, the court will seek
13 volunteer counsel only in the most serious and exceptional cases. In determining whether
14 “exceptional circumstances exist, the district court must evaluate both the likelihood of success
15 of the merits [and] the ability of the [plaintiff] to articulate his claims *pro se* in light of the
16 complexity of the legal issues involved.” *Id.* (internal quotation marks and citations omitted).

17 In the present case, the court does not find the required exceptional circumstances.
18 Plaintiff seeks appointment of counsel because he does not speak English. This is not an
19 exceptional circumstance under the law. Plaintiff has been ordered to file an amended complaint
20 in the English language but has not done so. The court does not accept complaints or other case
21 documents written in a language other than English, and the court shall not respond using a
22 language other than English. There are no appropriated funds available to translate court
23 documents from a foreign language to English or vice versa. Spanish translations and interpreters
24 are not required in civil cases such as this one under either California or Federal law. See, e.g.,
25 United States v. Si, 333 F.3d 1041, 1044 n.3 (9th Cir. 2002). Until Plaintiff has filed his amended
26 complaint in English, the court cannot determine whether there are other exceptional
27 circumstances under the law that would affect whether counsel should be appointed in this case.

28 ///

1 Thus, the court does not find the required exceptional circumstances, and Plaintiff's motion shall
2 be denied without prejudice to renewal of the motion at a later stage of the proceedings.

3 **III. MOTION FOR EXTENSION OF TIME**

4 Plaintiff requests an extension of time to file an amended complaint pursuant to the
5 court's order issued on November 18, 2022. The court finds good cause to grant Plaintiff's
6 request. Accordingly, Plaintiff shall be granted an extension of time until February 10, 2023,
7 in which to file an amended complaint in the English language.

8 **IV. CONCLUSION**

9 Accordingly, for the foregoing reasons, IT IS HEREBY ORDERED that:

10 1. Plaintiff's motion for the appointment of counsel and an interpreter is DENIED,
11 without prejudice;

12 2. Plaintiff is GRANTED an extension of time until February 10, 2023, in which
13 to file an amended complaint pursuant to the Court's order issued on November 18, 2022; and

14 3. Plaintiff's failure to comply with this order shall result in a recommendation that
15 this case be dismissed in its entirety.

16 IT IS SO ORDERED.

17 Dated: January 6, 2023

/s/ Gary S. Austin
18 UNITED STATES MAGISTRATE JUDGE